STATE OF NEW YORK

629--A

Cal. No. 29

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. ROZIC, WALLACE, MOSLEY, MAGNARELLI, ORTIZ, SIMON, JEAN-PIERRE, WALKER, BENEDETTO, CRESPO, GLICK, DE LA ROSA, D'URSO, PHEFFER AMATO, HYNDMAN, GOTTFRIED, BLAKE, RIVERA, DICKENS, SEAWRIGHT, WEPRIN, L. ROSENTHAL, COLTON, SOLAGES, MONTESANO, GRIFFIN, STIRPE, WILLIAMS, CRUZ, FERNANDEZ, REYES, McMAHON, SIMOTAS, ASHBY -- Multi-Sponsored by -- M. of A. GALEF, WRIGHT -- read once and referred to the Committee on Consumer Affairs and Protection -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the general business law, in relation to prohibiting businesses from charging a price for goods on the basis of gender

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new section 391-u to read as follows:

§ 391-u. Charging a price for goods on the basis of gender prohibited. 1. (a) No business shall charge a price for goods on the basis of gender.

(b) For the purposes of this section, "goods" shall not include:

(i) any food as defined in subdivision three of section two of the agriculture and markets law; or

(ii) goods sold by a new motor vehicle dealer as defined in paragraph f of subdivision one of section four hundred fifteen of the vehicle and traffic law.

(c) For the purposes of this section, "business" shall include any business that sells goods to any individual or entity, including, but not limited to, retailers, suppliers, manufacturers, and distributors.

2. Nothing in subdivision one of this section shall prohibit:

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD01137-03-0

(a) price differences based specifically on the labor, materials, tariffs, or other gender-neutral reasons for having increased cost for providing such goods; or

(b) a retail establishment from passing through a price to the consumer that is based on differences in prices charged for various products by suppliers, manufacturers, distributors, or other entities that a retailer cannot control.

3. Whenever there shall be a violation of this section, an application may be made by the attorney general in the name of the people of the state of New York, to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violation; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by the court or justice, enjoining and restraining any further violations, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty not to exceed two hundred fifty dollars for the first violation and not to exceed five hundred dollars for each subsequent violation. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules. For the purposes of this section, all identical items priced on the basis of gender shall be considered a single violation.

§ 2. This act shall take effect immediately.